

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

MARIA ALEJANDRA CELIMEN SAVINO,
JULIO CESAR MEDEIROS NEVES, and all
those similarly situated,

Petitioners-Plaintiffs,

v.

STEVEN J. SOUZA,

Respondent-Defendant.

Case No. 1:20-cv-10617 WGY

BRIEFING ON INDIVIDUAL APPLICATIONS FOR BAIL
WEDNESDAY, APRIL 15, 2020

1. Gomes, Marcio
2. Miranda-Castillo, Luis
3. Kirkpatrick, Kevin
4. Monteiro, Alessandro
5. Santos-Cabrera, Melchor
6. Velasquez-Hernandez, Oscar
7. Lima, Jucinei
8. Sanchez, Juan
9. Dias, Amiry

INTRODUCTION

Plaintiffs respectfully submit this briefing on the individual applications for bail that are scheduled for the Court's consideration on April 15, 2020. Information that is common to a number of applications (*e.g.*, briefing on CDC high-risk medical conditions) has previously been filed with this Court, *see* ECF 52, 56, 65, 74, 78, 81, and is incorporated herein by reference. The individualized briefings that are attached hereto as Exhibits 1-4 and 6-8 refer to this information as it may be relevant to particular individuals, and also include the following information for each individual: a) Biographical Information; b) Medical Condition; c) Plans For Transportation/Lodging If Released; d) Criminal History; and e) Immigration History.¹

Plaintiffs have omitted substantive briefing for Melchor Santos-Cabrera (#5) and Amiry Dias (#9). It is Plaintiffs' understanding that Mr. Santos-Cabrera has been released. Plaintiffs submitted briefing on Amiry Dias on a prior date, *see* ECF 78, as Mr. Dias also appeared as #6 on the Court's April 13, 2020 list.

PENDING MATTERS

Plaintiffs' Motion to Add Individual to Subclass 1, ECF 40 (regarding misclassification of named Plaintiff Maria Alejandra Celimen Savino due to error on government spreadsheet) has been fully briefed and remains pending.

Plaintiffs have also requested that Defendants provide an updated spreadsheet to both the Court and Plaintiffs, reflecting the current population of BCHOC.

Plaintiffs are in receipt of Defendant's Motion to Stay Further Releases, ECF 82, which Plaintiffs oppose. Plaintiffs hope that the Court will continue to rule on individual applications

¹ As with previous filings, if the Court determines that there are certain records or additional evidence that is needed, or wishes the included material to be presented in a different format, Plaintiffs respectfully request that the Court so inform counsel, so that we may attempt to provide it to the Court expeditiously.

for bail while Defendant's Motion is pending. In recognition of the urgency of the situation, Plaintiffs currently plan to file their Opposition to Defendant's Motion by 9:00 am on Thursday, April 16, 2020.

COMMON ISSUES IN INDIVIDUALIZED BRIEFINGS

I. The COVID-19 Pandemic Continues to Escalate in Massachusetts.

	<u>COVID-19 Deaths (MA)</u>	<u>COVID-19 Cases (MA)²</u>
<i>March 27, 2020 (Date of Complaint Filing)</i>	35	3240
<i>April 14, 2020</i>	957 (increase of 113 in last 24 hours)	28,163 (increase of 1,296 in last 24 hours)

Although Defendant states that there are "no cases of COVID-19" in the detainee population, *see* ECF 83, this is unfortunately unknown, as there is apparently no testing of the detainee population. An unknown number of facility staff have been tested, and at least four have now reportedly tested positive.³ Defendant has to date not responded to Plaintiffs' discovery requests seeking further information on testing protocols and results for class members and facility staff.

II. Travel Restrictions Make Deportation of Certain Class Members Unlikely.

As previously briefed, *see* ECF 56, the unprecedented threat of COVID-19 has driven countries around the world to close their borders in an attempt to slow the spread of the virus, calling into question the ability of ICE to effectuate the removal of foreign nationals to countries with broad restrictions in place. As a result, ICE as a practical matter is unable to deport many individuals who are subject to a final order of removal, leaving them at a

² Source: <https://www.mass.gov/info-details/covid-19-cases-quarantine-and-monitoring>.

³ *See Fourth staff member at Bristol County prison tests positive for coronavirus*, The Sun Chronicle (April 14, 2020), available at https://www.thesunchronicle.com/news/coronavirus/fourth-staff-member-at-bristol-county-prison-tests-positive-for-coronavirus/article_50a8fd5c-157c-5284-92c4-d8b4eb23dbb4.html

heightened risk of exposure to COVID-19 due to the prolongation of their detention with no clear end in sight.

To the list of countries that have suspended arrival of incoming passengers and effectively closed their borders,⁴ Plaintiffs add an additional country that is relevant to a class member on today's list for consideration. Panama has suspended all international and domestic commercial air flights.⁵

CONCLUSION

Plaintiffs submit that for the foregoing reasons, as well as the specific reasons laid out in the attached individualized briefings, this Court should grant the release of Marcio Gomes, Luis Miranda-Castillo, Kevin Kirkpatrick, Alessandro Monteiro, Oscar Velasquez-Hernandez, Jucinei Lima, Juan Sanchez, Amiry Dias, and Maria Alejandra Celimen Savino.

April 14, 2020
Respectfully Submitted,

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⁴ Plaintiffs' previous briefing covered the following countries: Dominican Republic, Democratic Republic of the Congo (DRC), Peru, Iraq, South Africa, Cape Verde, Guatemala, Honduras, Venezuela, Ecuador, Trinidad and Tobago, St. Lucia, Kenya, Colombia, El Salvador, India, and Liberia.

⁵ See U.S. EMBASSY IN PANAMA, COVID-19 Panama Information, available at <https://pa.usembassy.gov/covid-19-information/>

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CERTIFICATE OF SERVICE

I hereby certify that, on April 14, 2020 a copy of the foregoing document was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of this court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

Date: April 14, 2020

/s/ Oren Sellstrom
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